

FEDERAL PROGRAMS AND SERVICES AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF THE
FEDERATED STATES OF MICRONESIA

Concluded Pursuant to
Article III of Title One, Article II of Title Two, (including Section 222), and Section 231
of
the Compact of Free Association, as Amended

Federal Programs and Services Agreement Between the Government of the United States
and the Government of the Federated States of Micronesia Concluded Pursuant to Article
III of Title One, Article II of Title Two (including Section 222), and Section 231
of the Compact of Free Association, as Amended

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Concluded Pursuant to
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of
the Compact of Free Association, as Amended

This Agreement is concluded by the Signatory Governments and sets forth their respective authority and responsibility for the provision of the services and related programs authorized by Article III of Title One, Article II of Title Two (including any additional U.S. services and related programs authorized in accordance with section 222 of such Article II), section 231 of the Compact of Free Association, as amended (the Compact, as amended), or, where not otherwise provided within the Compact, as amended, any other provision of United States law. Unless otherwise provided within the Compact, as amended, or any other provision of United States law, this Agreement also sets forth the rights, privileges, and immunities of United States Government instrumentalities and personnel, as well as those of non-United States Government entities and personnel who provide any such services and related programs under those provisions of the Compact, as amended, or any other provision of United States law.

Article I

Definitions

Article I

Definitions

1. The Definition of Terms set forth in Article VI of Title Four of the Compact, as amended, is incorporated into this Agreement.
2. For the purposes of this Agreement only, the following terms shall have the following meanings:
 - (a) "Federal agency" refers to each department, agency or other instrumentality of the Government of the United States which provides services and related programs in accordance with Title Two of the Compact, as amended or if not otherwise provided, under any other provision of the Compact, as amended including its subsidiary agreements, or any other provision of United States law, including any successor agency or agencies, but does not include:
 - (1) The Armed Forces of the United States as defined in Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact, as amended, or
 - (2) The Diplomatic Mission and constituent posts, if any, of the Government of the United States to the Government of the Federated States of Micronesia (the "U.S. Diplomatic Mission").
 - (b) "United States contractors" means the legal entities, including corporations and natural persons (irrespective of the country of incorporation or citizenship of any such corporation or citizenship of any such natural person), present in the Federated States of Micronesia for the purpose of executing their contracts with the Government of the United States (or subcontracts of such contracts), or cooperative agreements, in support of the Federal agencies acting pursuant to Article III of Title One, Article II of Title Two and section 231 of the Compact, as amended, or any other provision of United States law, and who are designated as such by the Government of the United States. The term "United States Contractors" does not include local contractors.
 - (c) "Local contractors" means the legal entities, including corporations and natural persons, which are organized under the laws of, or which are present in the Federated States of Micronesia primarily for purposes other than those set forth in paragraph (b) of this section.

(d) "United States personnel" means anyone who is included in any of the following categories:

- (1) "civilian employees" – all Federal agency personnel, notwithstanding their citizenship or nationality, except local hire personnel, who are in the Federated States of Micronesia, and who are in the employ of or serving with a Federal agency and who are employed in any of the activities of such Federal agency;
 - (2) "contractor personnel" – natural persons, who are United States citizens or nationals or United States permanent resident aliens, except local hire personnel, who are in the Federated States of Micronesia, and who are United States contractors or officers or employees of United States contractors; or
 - (3) "dependents" – the spouses and dependents of persons included in paragraph (2)(d)(1) (including children of such persons who are born after such persons' arrival in the Federated States of Micronesia) who are listed on official United States Government travel orders and the spouses and dependents of persons included in paragraph (2)(d)(2).
- (e) "Third country contractor personnel" means natural persons other than United States contractor personnel or local hire personnel who are in the Federated States of Micronesia and who are United States contractors or officers or employees of United States contractors or dependents of any of them.
- (f) "Local hire personnel" means any citizen or national of the Federated States of Micronesia, whether or not ordinarily residing in the Federated States of Micronesia, and any citizen or national of any other country who is ordinarily residing in the Federated States of Micronesia, who is employed in the Federated States of Micronesia, by Federal agencies or United States contractors.

Article II

Legal Status of Programs and Related Services, Federal Agencies,
United States Contractors and United States Personnel

Article II

Legal Status of Programs and Related Services,
Federal Agencies, United States Contractors and
United States Personnel

1. The provision by the Government of the United States of any specific programs and related services to the Government of the Federated States of Micronesia, as may be funded by the Government of the United States, pursuant to this Agreement, shall be contingent upon compliance by the Government of the Federated States of Micronesia with all applicable provisions of U.S. law, including the provisions of the Compact, as amended (including sections 173 and 223 of the Compact, as amended), as they relate to such program or related service.

2.
 - (a) Subject to subparagraphs (b) and (c) below, the Government of the United States, Federal agencies, United States contractors, United States personnel, and third country contractor personnel, and their respective assets, income and other property shall be exempt from all taxes, including value added taxes (VAT), and shall be exempt from all customs duties and similar charges on the import and export of articles required for official functions and personal use.

 - (b) Income received by United States personnel or third country contractor personnel for services with or employment by Federal agencies, and income received by United States contractors under contracts or cooperative agreements in support of United States agencies, and income received by United States personnel, third country contractor personnel or United States contractors from sources outside the territory of the Federated States of Micronesia, shall be exempt from any tax, fee or other charge, including income and social security taxes, imposed by the Government of the Federated States of Micronesia, except that United States contractor personnel and third country contractor personnel, including dependents who are themselves United States contractor personnel or third country contractor personnel, shall not be exempt from a personal income tax generally applicable within the Federated States of Micronesia up to a level of five percent of their annual income derived from their employment in the Federated States of Micronesia.

 - (c) Income derived from and received by United States personnel or third country contractor personnel for services rendered within the FSM other than those specified under subparagraph (b) of this paragraph shall be

subject to the personal income tax and social security taxes that the FSM would impose on its own citizens who provide such services.

3. United States personnel and third country contractor personnel may import into and export from the Federated States of Micronesia furniture, household goods and personal effects for their private use, including all forms of privately owned land, sea and air transportation, free from customs duties, license requirements and other import and export taxes, fees or charges.
4. Animals and plants, including fruits and vegetables, imported by United States personnel and by third country contractor personnel shall be subject to the laws and regulations of the Federated States of Micronesia governing inspection of and restrictions on such importations.
5. The Federal agencies, in cooperation with the Government of the Federated States of Micronesia, shall take appropriate measures, including inspection, to prevent importation of contraband and to prevent abuse of privileges granted to United States personnel and third country contractor personnel under this Article.
6. Should property imported into the Federated States of Micronesia under the exemptions provided by this Article subsequently be transferred to a person not entitled to such exemptions, such person shall be liable for import duties and other charges according to the laws and regulations of the Government of the Federated States of Micronesia. This paragraph is without prejudice to the Government of the Federated States of Micronesia adopting laws and regulations that require the giving of notice of such transfer to relevant authorities of the Federated States of Micronesia. The Government of the United States and its Federal agencies shall cooperate with the Government of the Federated States of Micronesia, as necessary, to prevent abuse of the customs privileges granted under this agreement.
7. Without prejudice to any additional privileges and immunities provided under the Compact, as amended, civilian employees shall enjoy immunity from civil and criminal process and liability relating to or resulting from any wrongful act or omission done within the scope and in the performance of official duty, except insofar as such immunity is expressly waived by the Government of the United States. Civilian employees who have been arrested in connection with an offense not related to the performance of their official duties in the Federated States of Micronesia shall be released to the custody of a United States diplomatic representative in the Federated States of Micronesia, unless in the case of a grave crime a competent judicial authority decides that such civilian employees shall remain subject to detention by the local authorities.

8.

(a) The authorities of the Federal agencies shall pay just and reasonable compensation in settlement of meritorious, noncontractual claims arising out of the wrongful acts or omissions occurring subsequent to the effective date of this Agreement in the Federated States of Micronesia of the Federal agencies themselves, or of their civilian employees and local hire personnel, if such act or omission occurred within the scope and in the performance of official duty of the civilian and local hire personnel. All such claims shall be processed and settled by the respective Federal agencies in accordance with the laws and regulations of the United States. Any such claims which cannot be settled as provided for in this paragraph, and which are espoused by the Government of the Federated States of Micronesia, shall be disposed of pursuant to the provisions of Article II of Title Four of the Compact.

(b) Contractual claims against the Federal agencies shall be settled in accordance with the disputes clause of the contract if any, and the laws of the United States relating to the resolution of such disputes. In the absence of such clause, the claims shall be presented to the appropriate United States authority; subject to section 174 of the Compact, as amended, if no settlement is reached, the appropriate court of the United States shall have jurisdiction over such claims.

(c) The Government of the Federated States of Micronesia shall present claims arising under this Article to the United States Diplomatic Mission, which shall forward such claims to the Competent Authority of the Federal Agency concerned.

9. Except as otherwise expressly provided in this or any other subsidiary agreement to the Compact, as amended, any dispute arising under this Agreement shall be disposed of exclusively pursuant to the provisions of Article II of Title Four of the Compact.

(a) The Federal agencies shall not be subject to the jurisdiction of the courts of the Government of the Federated States of Micronesia under Article VII of Title One of the Compact for any claim under paragraph 8 of this Article arising in the Federated States of Micronesia from the acts or omissions of the Federal Agencies occurring subsequent to November 3, 1986. All such claims shall be processed and settled exclusively in accordance with this Article.

(b) Any judgment presented for certification to the United States Court of Appeals for the Federal Circuit pursuant to section 174 of the Compact, as amended, shall be deemed manifestly erroneous as to law if the claim

upon which such judgment is based would have been barred by the statute of limitations if such claim had been brought in a court of the United States.

10. For the purposes of carrying out the provisions of this Agreement, the Government of the United States and the Government of the Federated States of Micronesia shall designate Competent Authorities. The Competent Authorities of the Government of the United States and the Competent Authorities of the Federated States of Micronesia may communicate directly with each other. In the case of the Government of the United States, the Competent Authority shall be the head of or designee of the Federal agency concerned who shall be designated in writing to the Government of the Federated States of Micronesia.
11. The Government of the Federated States of Micronesia shall accept as valid, without a test or fee, the operator's permit or license or military driving permit issued to United States personnel or third country contractor personnel by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.
12. Official vehicles of the Federal Agencies, vehicles owned or operated by United States contractors, and privately owned vehicles of United States personnel shall be identified by individual markings or license plates issued by the Government of the United States, the Governments of the States of the United States of America, its Territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands. However, the Government of the United States may use local individual markings or license plates in the Federated States of Micronesia.
 - (a) Official vehicles shall not be subject to the registration or safety inspection laws of the Government of the Federated States of Micronesia.
 - (b) The Armed Forces of the United States may register vehicles of United States contractors and United States personnel that are not official vehicles, and may inspect such vehicles applying safety standards of general applicability in the Federated States of Micronesia. Vehicles so registered and inspected shall be exempt from the registration and safety inspection laws of the Government of the Federated States of Micronesia.
13. For purposes of this Article the term "vehicles" includes all forms of land, sea and air transportation.

14. Any reference in this Agreement to a provision of the law of the United States constitutes the incorporation of the language of such provision into this Agreement as such provision is in force on November 3, 1986, or as it may have been or may be amended thereafter on a non-discriminatory basis according to the constitutional processes of the United States.
15. The Government of the United States may use local telecommunication systems and, in determining its uses of such systems, shall take into consideration the cost and security of such systems and the availability of alternate United States systems. The Government of the United States shall encourage the use of local telecommunication systems by United States personnel for non-official purposes. To the extent that the Government of the Federated States of Micronesia establishes telecommunications systems compatible with existing United States Government installations, the Government of the United States and the Government of the Federated States of Micronesia may enter into negotiations for a use arrangement which includes normal billing procedures.

Article III

Employment of Labor